

REMARKS

Reconsideration of the application is respectfully requested.

Claim Rejections – 35 U.S.C. §101

Claims 15-19 were rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. The Office Action alleges that the language of the claims raises a question as to whether the claims are directed to functional descriptive material. Without conceding to the propriety of the rejections, claims 15-17 are being amended to recite “code amendment enabler embodied in hardware and executable on a computer.” Claims 18-19 are being amended to recite “code amendment computer system.” Support for the amendments can be found at least on page 14, line 27 to page 15, line 9. It is believed that the claims as amended recite statutory subject matter.

Claim Rejections – 35 U.S.C. §112

Claims 18-19 were rejected under 35 U.S.C. §112, first paragraph, allegedly because “code amendment device” is not enabling. Without conceding to the propriety of the rejection, claims 18-19 are being amended to recite, “code amendment computer system.” The amendment is believed to overcome the rejection.

Claims 1, 9, 15 and 18 were rejected under 35 U.S.C. §112, second paragraph. The Office Action alleges that “software provide (25) of enabling a software-acquiring entity (20) to arrive from an existent first signed piece of code (11) executable on a machine at a second signed piece of code (12, 13) executable on the machine” renders the claim indefinite. While not agreeing with that allegation, claims 1 and 9 are being amended to include additional punctuation

and preposition to improve the readability. Those claims as amended are believed to be definite. Unlike the allegations in the Office Action, claims 15 and 18 do not include that recitation, and accordingly those claims are believed to be definite as they currently stand.

Claims 1, 9, 15 and 18 were rejected because of insufficient antecedent basis of “said second signed piece.” Those claims are being amended to recite, “said second signed piece of code.”

Claims 1, 3-9, 11-12, 15, 17 and 18 were rejected under 35 U.S.C. §112, second paragraph, allegedly because “both pieces of code (11, 12, 13)” and “second signed piece of code (12, 13)” are unclear. Applicant respectfully disagrees. The claims in the preamble recite, “first signed piece of code (11)” and “second signed piece of code (12, 13).” Thus, first signed piece of code may be 11 and second signed piece of code may be 12 and/or 13 disclosed in Fig. 1. It is glaringly evident that “both pieces of code (11, 12, 13)” then refers to first signed piece of code and second signed piece of code. If it would help to further clarify the claims for examination purposes, applicants will delete from the pending claims all numerical references corresponding to elements of Fig. 1.

Claims 13 and 15-19 were rejected under 35 U.S.C. §112, second paragraph allegedly because “tangibly embodied in hardware” renders those claims indefinite. The Office Action suggests deleting, “tangibly.” Without conceding to the propriety of the rejection, those claims being amended to remove the recitation, “tangibly” as suggested.

Claim Rejections – 35 U.S.C. §102

The Office Action rejected Claims 1-13 and 15-19 under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,052,531 (“Waldin”). Applicants respectfully disagree.

Waldin as understood by applicant discloses incremental update patches that contain information necessary to transform one version of an application to another version. Waldin, however, does not disclose or suggest every element claimed in independent claims 1, 9, 15 and 18. For instance, Waldin does not disclose or suggest at least, “instructions to amend said first signed piece of code so that a signature belonging to said second signed piece is the same signature for a corresponding second signed piece of existing at the software provider.” Rather, Waldin discloses that its binary patch files are digitally signed compressed executable modules.

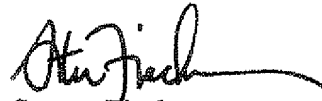
The Office Action cites Waldin’s col. 4, lines 15-52 as allegedly disclosing that element. That passage describes that, “the incremental update files are binary patch files which are digitally signed compressed executable modules.” Providing binary patch files that are signed is different from the claimed “instructions to amend said first signed piece of code so that a signature belonging to said second signed piece is the same signature for a corresponding second signed piece of existing at the software provider.” In claims 1, 9, 15 and 18, the resulting second signed piece of code generated at the software acquiring entity has the same signature as the second signed piece of code generated at the software provider. As explained on page 4 of the originally submitted specification, assembling of the previously acquired software together with the update in practically all cases would lead to a different signature, which would be recognized by a verifier tool as non-original. To overcome such effect, the claims recite, “instructions to amend said first signed piece of code so that a signature belonging to said second signed piece is the same signature for a corresponding second signed piece of existing at the software provider.” For at least that reason, Waldin does not anticipate independent claims 1, 9, 15 and 18.

Claims 2-8, 10-13, 16-17, and 19, which depend directly from the independent claims 1, 9, 15, and 18, incorporate all of the limitations of the corresponding independent claims and are

therefore also not anticipated by Waldin for at least those reasons provided for claims 1, 9, 15, and 18.

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all rejections, and allowance of all pending claims in due course.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven Fischman", with a long horizontal flourish extending to the right.

Steven Fischman
Registration No. 34,594

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, N.Y. 11530
(516) 742-4343

SF/EP/av